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Letter dated 4 May 2000 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council

We would like to add our voice to those who have expressed concern about the recent public visit with Slobodan Milosevic of two ambassadors from the Security Council while on a fact-finding mission to Kosovo. This has more than a tangential interest for Bosnia and Herzegovina. First, progressive, democratic change in our region is essential, and in particular with respect to the situation in Belgrade. Second, the International Tribunal for the Former Yugoslavia is recognized by the Dayton Peace Accords and our Constitution, the supreme institution of justice within Bosnia and Herzegovina. Any marginalization of the Tribunal also means an undermining of the principles of justice, legality and democracy in our country as well as in the region as a whole.

However, it is not our intention to condemn or rhetoricalize the actions of our two colleagues from the Security Council. Rather, we would like to encourage a dialogue to help develop the appropriate standards of protocol and political symbolism for this and similar situations that may challenge or pose a dilemma for individuals and international institutions.

Mr. Milosevic has been indicted by the Tribunal. As an individual, he remains to be convicted or exonerated. The problem is that Mr. Milosevic continues to ignore the legal demands of the Security Council and the Tribunal established by it. By extension, he also denies the principles and legal norms of the United Nations. This is also a commitment of the Dayton Peace Accords, to which Mr. Milosevic has added his signature. We believe that there is something inappropriate, in terms of both substance and appearance, in extending to Mr. Milosevic any of the privileges normally accorded to leaders and representatives of States. Granting Mr. Milosevic legitimacy can and does have the effect of undermining the credibility of the Tribunal. It also has the impact of weakening support for legality and the Dayton Peace Accords, which, again, were also endorsed by the Security Council.

Therefore, we would like to encourage a debate within the Security Council and ultimately the adoption of standards of appropriate protocol in dealing with individuals who by words and/or deeds deny the authority of the Tribunal and, by extension, the Security Council and the United Nations as a whole. Mr. Milosevic clearly falls into this unfortunate class, and did so even before his indictment, by failing to heed the numerous demands of the Security Council to deliver other

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persons who had been indicted by the Tribunal who were openly shielded by living in the Federal Republic of Yugoslavia (Serbia and Montenegro).

As an example, we would ask that the following norms of protocol and behaviour be considered (certain similar codes of standards were implicitly adopted in the period before, during and after the negotiations on the Dayton Peace Accords):

1. Minimize formal contacts of indicted persons (and others denying the authority of the Tribunal and the Security Council) with the representatives of the United Nations and Member States and avoid public and symbolic appearances;

2. Any formal or informal meeting should include a clear statement that the offending personality is obliged to cooperate with the Tribunal (and in the future the International Criminal Court) and the Security Council;

3. Deny the normal privileges of protocol that would otherwise be accorded to the political office associated with the offending personality;

4. None of this prejudges guilt or innocence, but addresses a clear failure to cooperate and heed.

This debate and appropriate standards are necessary now for the existing Tribunals. However, soon we must engage in order to define the terms of interaction between the International Criminal Court and the various institutions of the United Nations, in particular the Security Council. We are concerned that the present letter will initially be viewed by some in the Security Council as a rebuke. However, it is a request for dialogue and standards before we and our common international institutions become legally blurred, politically irrelevant and lacking in credibility with respect to the most recent challenges to international peace and security, both in our eyes and in those of the global public.

May I ask for your kind assistance in circulating the present letter as a document of the Security Council.

(*Signed*) Muhamed **Sacirbey**
Ambassador
Permanent Representative